

## How many streams will actually be protected ODF's prospective new stream rules?

*Analysis is needed to show the full extent of streams lacking protection from illegal stream warming*

The Oregon Department of Forestry's RipStream study shows that small and medium streams logged under current rules consistently heat more than would occur under natural conditions. These findings spurred the Board of Forestry to initiate a process to develop new stream protection rules, with a decision on the scope and content of these rules now slated for June 3, 2015.

Oregon's water quality standard that applies to streams that are not "impaired" (i.e., not over the applicable numeric criteria and placed on the state's Clean Water Act "303(d) list") is called the Protecting Cold Water (PCW) criterion. The PCW criterion limits warming to 0.3°C over current temperatures. The geographic scope of the PCW is all streams that are not impaired unless a party demonstrates that certain streams can be exempted.<sup>1</sup> All waters upstream of salmon, steelhead and bull trout streams are included in the PCW unless it is demonstrated that protection is unnecessary to prevent downstream reaches from violating the PCW.

Oregon's water quality standards for temperature also include a provision that states that when stream temperature restoration targets for impaired streams have been established (called a Total Maximum Daily Load (TMDL)) that those targets supersede the PCW if they apply to the same waters. A number of basins and watersheds in Western Oregon have TMDLs and each is slightly different.<sup>2</sup> However, all of the TMDLs for temperature cover all perennial streams at a minimum, and some apply to fish-bearing intermittent streams as well. All the TMDLs reduce the allowable warming from 0.3°C to somewhere between zero and 0.1°C over temperatures that are assumed to be natural.

- *ODF modeling of stream warming based on the Ripstream study data demonstrates that stream warming under current rules is on average 1.6°C.*

The Department of Forestry has not yet decided what to recommend to the Board as the geographic extent of its new logging rules that presumably will provide shade sufficient to prevent warming. However, ODF has stated or implied that it will exclude the following streams from the new rules:

1. All "non-fish" bearing streams (approximately 70% of the stream network), termed "Type N."
2. Of fish bearing streams:
  - all large fish-bearing streams
  - all small and medium streams without salmon, steelhead, or bull trout (SSBT) present
  - all small fish-bearing streams upstream of SSBT streams
  - all impaired fish-bearing streams
  - all non-perennial fish-bearing streams

The Board needs to understand that it may be at risk of adopting new rules that apply only to a small subset of streams in Western Oregon. Analysis is needed to illustrate how few streams would be protected under the Department's extremely narrow and inaccurate reading of the Oregon water quality standards.

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<sup>1</sup> The streams that may be exempted are as follows: (1) where no threatened or endangered (T&E) salmonids currently inhabit the water body; (2) the water body has not been designated as critical habitat; and (3) colder water is not necessary to ensure that downstream temperatures meet applicable temperature criteria. OAR 340-041-0028(11)(a).

<sup>2</sup> TMDLs have been approved for the following basins in western Oregon: North Coast, South Coast, Upper South Fork Coquille; Umpqua, Rogue except Bear Creek; Bear Creek; Applegate, Lobster Creek; Lower Sucker Creek; Willamette; Sandy; Miles Creek of the Mid-Columbia.

Grey box = geographic/reach extent of current ODF proposal to include only non-impaired SSBT small and medium streams.

<b>All streams in Western Oregon</b>  <i>miles overall</i>  <i>miles on forestlands</i>	<b>Non-fish bearing streams (approx. 70% of stream network)</b>  <i>miles overall</i> <i>miles on forestlands</i>			
	<b>Fish-bearing streams – all sizes</b>  <i>(approx 30% of stream network)</i>  <i>miles overall</i>  <i>miles on forestlands</i>	<b>Large fish-bearing streams</b>		
		<b>Medium and small fish-bearing streams – not SSBT</b>  <i>miles overall (% of fish-bearing)</i>  <i>miles on forestlands (% of fish-bearing)</i>	Fish-bearing streams not SSBT <b>IMPAIRED</b>	Fish-bearing streams not SSBT <b>IMPAIRED</b> <b>TMDL completed</b>
				Fish-bearing streams not SSBT <b>IMPAIRED</b> <b>No TMDL</b>
			Fish-bearing streams not SSBT <b>NOT IMPAIRED (PCW)</b>	Fish-bearing streams not SSBT <b>NOT IMPAIRED</b> <b>TMDL completed</b>
				Fish-bearing streams not SSBT <b>NOT IMPAIRED</b> <b>No TMDL</b>
		<b>Medium and small SSBT streams</b>  <i>miles overall (% of fish bearing) = % of all miles</i>  <i>miles on forestlands (% of fish bearing) = % of all miles on forestlands</i>	SSBT streams <b>IMPAIRED</b>	SSBT streams <b>IMPAIRED</b> <b>TMDL completed</b>
				SSBT streams <b>IMPAIRED</b> <b>No TMDL</b>
			SSBT streams <b>NOT IMPAIRED (PCW)</b>	SSBT streams <b>NOT IMPAIRED</b> <b>TMDL completed</b> (covers streams previously under PCW)
				SSBT streams <b>NOT IMPAIRED</b> <b>No TMDL</b>